



Abusive Schemes: Parallel Civil and Criminal Approach

A Panel Discussion with SB/SE, CI & OPR



Overview

- IRS Parallel Civil and Criminal Approach to Stop Abusive Schemes
 - Concurrent civil and criminal enforcement efforts conducted and coordinated to maximize the Government's ability to combat fraud
- Responsibilities of Tax Professionals in re: Abusive Schemes



Lead Development Center

- Established April 2002 to centralize receipt and development of leads on promoters of abusive schemes
- Conducts Internet and other public database searches to develop facts about promoters and/or promotions
- Coordinates parallel investigations with Criminal Investigation and Counsel
- Refers approved leads to the field for further development and investigation



Civil - Emerging Issues

- Characteristics
 - Sophisticated and Complex
 - Tiered Transactions
 - Channeling Funds Offshore to Tax Haven Countries
- Identified Abusive Tax Avoidance Transactions
 - Employee Leasing Deferred Compensation
 - Employee Stock Options
 - Foreign and Domestic Trusts
 - IRC 861



Voluntary Disclosure Practice

- IRM 9.5.3.3.1.2.1
 - Updated 12/2002
- Modernized language to clarify what constitutes “timely” disclosure
 - Examples to illustrate these standards
- Contact your local CI office to make a disclosure



Criminal - Focus Areas

- Promoter Strategy
- Identified/Emerging Schemes
 - Offshore Schemes
 - Credit/Debit Cards
 - Employment Tax
 - Identity Theft
 - “Sight Drafts”



Office of Professional Responsibility

- Empowered by Treasury, OPR fosters excellence in tax professional services to taxpayers by setting, communicating and enforcing standards of competence, integrity and conduct
- Administer the regulations governing practice before the IRS
- Make determinations on applications for enrollment and conduct disciplinary proceedings regarding those eligible to practice
- Authority of Treasury Circular 230



Practitioner Duties

- Circular 230
 - Promptly submit records/info requested by IRS
 - Advise clients to properly comply with the revenue laws
 - Perform due diligence as to accuracy
 - Promptly dispose of pending matters



Actionable Conduct

- Criminal offenses under the revenue laws or any offenses involving dishonesty or breach of trust
- Knowingly giving false or misleading information in connection with federal tax matters
- Willingly failing to file a tax return, evading/attempting to evade any federal tax/payment
- Misappropriating or failing to remit funds received from clients for tax payments
- Directly or indirectly attempting to influence the official action of IRS employees by the use of threats, false accusations, duress or coercion



Actionable Conduct and Sanctions

- Disbarment or suspension from practice as an attorney, CPA or actuary
 - Expedited Proceeding
- Using abusive language, making false accusations, and statements knowing they are false
- Giving false opinion knowingly, recklessly or through gross incompetence
- Knowingly aiding and abetting disbarred or suspended persons to practice before the IRS
- **Sanctions: From Reprimand to Disbarment**



Additional Information

- Circular 230
 - http://www.irs.gov/pub/irs-utl/circular_230_regs.pdf
- Announcement of Disciplinary Actions
 - <http://www.irs.gov/individuals/lists/0,,id=98200,00.html>
- Publication 947
 - <http://www.irs.gov/pub/irs-pdf/p947.pdf>
- Abusive Schemes Counter Marketing Tools
 - <http://www.irs.gov/businesses/small/article/0,,id=106788,00.html>
- Tax Fraud Alerts
 - <http://www.irs.gov/irs/content/0,,id=106057,00.html>



Questions?